

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re Application of: |) | |
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| Nobuhiko NOMURA et al. |) | Group Art Unit: 1642 |
| |) | |
| Application No.: 10/765,048 |) | Examiner: Brandon J. FETTEROLF |
| |) | |
| Filed: January 28, 2004 |) | |
| |) | |
| For: APOPTOSIS INDUCER AND |) | Confirmation No.: 9606 |
| METHOD OF SCREENING FOR A |) | |
| SUBSTANCE INHIBITING |) | |
| ACYLATED HOMOSERINE |) | |
| LACTONE |) | |

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM
ADJUSTMENT AND REQUEST FOR REVIEW OF CALCULATION**

As required by 65 FED. REG. 56387 (September 18, 2000), Applicants notify the Patent and Trademark Office (PTO) of a possible error in the patent term adjustment. Applicants confirm receipt of the Notice of Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) dated July 1, 2008.

The Notice indicates that the PTO has determined that the patent term adjustment period for this application is 567 days. Applicants respectfully request that the PTO review the calculation for Patent Term Adjustment in this case.

Applicants point out that the time period between the filing date of the application, January 28, 2004, and the mailing of a Restriction Requirement, October 16, 2006, is 14 months plus 567 days, according to 37 C.F.R. § 1.703(a)(1).

In addition, the time period between the Response to Restriction Requirement of November 16, 2006, and the Office Action of March 27, 2007, is four months plus 11 additional days under 37 C.F.R. § 1.703(a)(2). Although the Office issued an Office Action on January 29, 2007, that Office Action was withdrawn in favor of the Office Action of March 27, 2007. Thus, the period of adjustment of patent term due to examination delay should be 578 days.

Later, Applicants filed an Amendment and Response to Final Office Action on May 16, 2008. On June 3, 2008, Applicants filed an Information Disclosure Statement containing the statement specified by 37 C.F.R. § 1.704(d) required to avoid a negative patent term adjustment. However, one document listed in that Information Disclosure Statement was a Japanese language communication from the Japanese Patent Office in a counterpart foreign application. On June 20, 2008, Applicants filed a Supplemental Information Disclosure Statement listing a translation of that Japanese language communication from the Japanese Patent Office. Thus, the Information Disclosure Statement of June 20, 2008, could provide grounds for a patent term reduction of 17 days.

Accordingly, at this stage of prosecution, there may be grounds for a patent term adjustment of 561 days.

Please charge any necessary fees required to enter this paper to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: September 24, 2008

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